BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
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IN THE MATTER OF	
PETITION FOR RULEMAKING OF THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL PROPOSING ADDITIONAL DISCLOSURE BY SOME OPERATOR SERVICE PROVIDERS	CC DOCKET NO. RM-8606
AND	
COMPTEL'S FILING IN CC DOCKET NO. 92-77 PROPOSING A RATE CEILING ON OPERATOR SERVICE CALLS	CC DOCKET NO. 92-77

REPLY COMMENTS OF THE
NATIONAL ASSOCIATION OF ATTORNEYS GENERAL,
TELECOMMUNICATIONS SUBCOMMITTEE OF THE
CONSUMER PROTECTION COMMITTEE

APRIL 26, 1995

The Telecommunications Subcommittee of the Consumer Protection Committee of the National Association of Attorneys General ("NAAG") submits these Reply Comments in the above referenced matter.

I. AN INTERMEDIATE MEASURE IS NEEDED IMMEDIATELY.

Marketplace abuses and consumer confusion continue in the Operator Service Provider ("OSP") industry. Consumer complaints filed with state Attorneys General, state regulatory agencies and the Federal Communications Commission ("FCC") detail that unexpected, exorbitant charges or billing problems persist and demand immediate regulatory action. Commenters almost unanimously agree that consumers continue to face problems using public phones, but disagree on the remedy.[1]

The proposed additional audible disclosure (i.e., that the price of the call may be greater than the price charged by a caller's regular carrier) following the identification of the carrier provides a needed, workable, and currently available

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[1] One commenter attempted to justify the range of OSP charges by comparing them with the range of fares paid for airline tickets on same flight (U.S. Osiris Corporation, p. 5). However, analysis of both markets does not support that commenter's conclusion that there is no problem in the delivery of OSP services.

Airline ticket price differentials are attributable to variations in supply and demand related to the time of purchase and space availability; variations in OSP charges are not responsive to similar demand characteristics. If the airline industry were comparable to the OSP industry, unsophisticated travelers would be: (a) blindfolded before entering an airport ticket area; (b) directed by chance to a particular carrier; (c) issued a ticket without a price quote (unless a customer happened to know a secret code number); and (d) billed weeks later with an unexpected charge.

The primary problem is not that price differentials exist for essentially the same service, but that useful information about prices and accessing competitors is not readily available to many consumers.

remedy. This position is based on the following considerations. First, consumer complaints, triggered by unexpected, exorbitant charges, demonstrate that many consumers still believe that public phone rates are regulated and expect that charges will be reasonable. This is particularly true for callers who use their carriers' calling card and presume that a phone call will be handled by their carrier. Additional audible disclosure, following the identification of a carrier, will help to correct this consumer misperception.

Second, if informed with price and carrier access facts, consumers would be better able to make knowledgeable choices about using public phones. If these disclosures were made, fewer callers would be surprised by exorbitant and previously undisclosed charges. The ready availability of this information would promote competition in the OSP industry as consumers seek the most efficient provider.

II. THE NAAG PROPOSAL WILL ENHANCE PRICE COMPETITION WITHIN THE OSP INDUSTRY AND WILL REDUCE CONSUMER COMPLAINTS ABOUT UNEXPECTED HIGH CHARGES.

The NAAG proposal sets forth a specific audible disclosure to follow identification of a particular carrier. Many commenters expressed concern about the disclosure's specific sentences.[2]

[2] Among the concerns were the following: The message was vague and confusing (Operator Service Company, p. 7); costs are imposed on the LEC which must respond to calls made to directory assistance (NYNEX, p. 4); directory assistance is problematic in that a caller may not obtain the number of a particular long distance company (Southwestern Bell Telephone Company, p. 4); and, the disclosures were "regulatory overkill" (Teltrust, Inc., p. 9).

However, these concerns do not outweigh addressing the underlying problem--consumers still need more information.

Undoubtedly, specific and timely price disclosure, as recommended in the comments of the Colorado Public Utilities Commission Staff[3] (i.e., specific price disclosure about the particular call which is being placed) would enhance competition and would reduce consumer confusion. An alternative approach proposed by NYNEX would direct a caller to the display on a public phone for further information about rates.[4] Although this information is currently required to be displayed on some phones, an audible disclosure about price and availability of rate information would be more effective in informing consumers.[5]

Whatever additional disclosure information the FCC requires, the disclosure language should be strictly prescribed. Based on the Attorneys General experience with disclosures required for pay-per-call information services, allowing each OSP to compose its own disclosure message will confuse consumers. In particular, irresponsible OSPs could use double negatives, for instance, or

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3 Colorado Public Utilities Commission staff, p. 6.

4 NYNEX, at p. 4.

5 NYNEX's approach may avoid some problems related to directing a caller to 800 directory assistance to obtain a particular carrier's dial-around access number; however, the usefulness of NYNEX's direction could easily be compromised by failure to comply with display requirements. The Attorneys General experience shows that the information required to be displayed on public phones is often either out of date, missing, vandalized or otherwise unavailable to consumers using those phones.

other clever language to diminish useful information in the message.

An additional audible disclosure alone will not "prevent excess charges"-- a criteria used by one commenter to criticize the NAAG proposal.[6] However, this disclosure will certainly alert consumers to the potential charge for a call and displace the historic presumption that phone charges will be reasonable and that calling card calls will be billed by a caller's carrier.[7] Moreover, adoption of this proposal should not be rejected,because compliance will ultimately depend upon enforcement efforts as noted by several commenters.[8] Under such criteria, almost every regulatory measure would fail. Finally, in response to comments that the selection of a dominant carrier-based benchmark is

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[6] MCI Telecommunications Corp., p. 6. Action in this matter need not be based on sophisticated statistical studies of the marketplace or consumer perception studies regarding a particular formulation of additional disclosures as urged by another commenter (The Competitive Telecommunications Association, p.11). Thousands of complaints filed in recent years sufficiently evidence absence of adequate information about the price of public phone calls. Furthermore, the FCC has sufficient expertise to define specific terms to be used in a disclosure.

[7] Commenters did not provide specific information about the potential cost associated with the implementation of NAAG's proposal. Several noted that the audible information would not be welcomed by frequent callers (e.g. Operator Service Company, p. 7). However, just as callers need not wait for the audible carrier disclosure before placing a call, presumably frequent callers will also ignore additional disclosures and continue with dialing. Another commenter alluded to "detailed implementation questions" regarding the disclosure (Bell Atlantic, p. 2), but did not further describe these concerns. Since the proposal builds on an existing requirement--branding--technical implementation would be feasible.

[8] For example, see: Southwestern Bell Telephone Company, p. 4.

arbitrary and favors certain providers,[9] the disclosure should be required for all public phones just as call-branding currently is obligated. This approach would avoid devising a complicated mechanism to identify which OSP providers ought to be required to provide additional disclosures.

III. NAAG OPPOSES THE RATE CAP ALTERNATIVE.

As explained fully in its initial Comments, NAAG opposes the CompTel Rate Ceiling proposal. Arming consumers with information will lead to a more efficient marketplace. In contrast, CompTel's proposal authorizes OSPs to charge rates that are not cost or competitively based, but set just below a level perceived to trigger consumer outrage. Furthermore, simply limiting some excessive rates fails to address underlying consumer misperceptions about the use of public phones.

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9 For example, see: AT&T, p. 5.

CONCLUSION

The NAAG proposal would minimize complaints regarding unexpected public phone charges. Consistent with Congressional intent underlying the Telephone Operator Consumer Services Improvement Act of 1990 (47 U.S.C. § 226), consumers will have more information to enable them to make informed choices about placing long distance calls through public phones.

Dated this 26th day of April, 1995.

Respectfully submitted,

National Association of Attorneys General
Consumer Protection Committee
Telecommunications Subcommittee

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CERTIFICATE OF SERVICE

I, Ellen S. LeVine, hereby certify that on this 24th day of April, 1995 a true and correct copy of the foregoing REPLY COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA AND THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA was mailed first class, postage prepaid to all known parties of record.

/s/ ELLEN S. LEVINE

Ellen S. LeVine

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